

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

January 31, 2022

1:32 p.m.

**MEMBERS PRESENT**

Senator Roger Holland, Chair  
Senator Mike Shower, Vice Chair  
Senator Shelley Hughes  
Senator Robert Myers  
Senator Jesse Kiehl

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE JOINT RESOLUTION NO. 19

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit.

- MOVED CSSJR 19(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 155

"An Act relating to court-appointed visitors and experts; relating to the powers and duties of the office of public advocacy; relating to the powers and duties of the Alaska Court System; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 119

"An Act relating to oaths of office; and requiring public officers to read the state constitution, the Declaration of Independence, and the United States Constitution."

- HEARD & HELD

SENATE BILL NO. 129

"An Act relating to information on judicial officers provided in election pamphlets."

- SCHEDULED BUT NOT HEARD

## PREVIOUS COMMITTEE ACTION

BILL: SJR 19

SHORT TITLE: CONST. AM: APPROP LIMIT

SPONSOR(s): SENATOR(s) MYERS

01/18/22	(S)	PREFILE RELEASED 1/7/22
01/18/22	(S)	READ THE FIRST TIME - REFERRALS
01/18/22	(S)	JUD, FIN
01/28/22	(S)	JUD AT 1:30 PM BUTROVICH 205
01/28/22	(S)	Heard & Held
01/28/22	(S)	MINUTE(JUD)
01/31/22	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: HB 155

SHORT TITLE: COURT SYSTEM PROVIDE VISITORS & EXPERTS

SPONSOR(s): REPRESENTATIVE(s) TUCK

03/29/21	(H)	READ THE FIRST TIME - REFERRALS
03/29/21	(H)	JUD, FIN
04/05/21	(H)	JUD AT 1:00 PM GRUENBERG 120
04/05/21	(H)	Heard & Held
04/05/21	(H)	MINUTE(JUD)
04/07/21	(H)	JUD AT 1:00 PM GRUENBERG 120
04/07/21	(H)	Moved HB 155 Out of Committee
04/07/21	(H)	MINUTE(JUD)
04/09/21	(H)	JUD RPT 4DP 3NR
04/09/21	(H)	DP: KREISS-TOMKINS, DRUMMOND, SNYDER, CLAMAN
04/09/21	(H)	NR: EASTMAN, VANCE, KURKA
05/05/21	(H)	FIN AT 9:00 AM ADAMS 519
05/05/21	(H)	Heard & Held
05/05/21	(H)	MINUTE(FIN)
05/06/21	(H)	FIN AT 1:30 PM ADAMS 519
05/06/21	(H)	Moved HB 155 Out of Committee
05/06/21	(H)	MINUTE(FIN)
05/07/21	(H)	FIN RPT 7DP 2NR
05/07/21	(H)	DP: ORTIZ, EDGMON, LEBON, THOMPSON, WOOL, JOSEPHSON, MERRICK
05/07/21	(H)	NR: CARPENTER, RASMUSSEN
05/13/21	(H)	TRANSMITTED TO (S)
05/13/21	(H)	VERSION: HB 155
05/14/21	(S)	READ THE FIRST TIME - REFERRALS
05/14/21	(S)	JUD, FIN
01/28/22	(S)	JUD AT 1:30 PM BUTROVICH 205
01/28/22	(S)	Scheduled but Not Heard

01/31/22 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 119

SHORT TITLE: OATH OF OFFICE

SPONSOR(s): SENATOR(s) REINBOLD

04/07/21	(S)	READ THE FIRST TIME - REFERRALS
04/07/21	(S)	EDC, JUD, STA, FIN
04/23/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/23/21	(S)	Heard & Held
04/23/21	(S)	MINUTE(EDC)
04/28/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/28/21	(S)	Moved CSSB 119(EDC) Out of Committee
04/28/21	(S)	MINUTE(EDC)
04/30/21	(S)	EDC RPT CS 4DP 1NR SAME TITLE
04/30/21	(S)	DP: HOLLAND, HUGHES, STEVENS, MICCICHE
04/30/21	(S)	NR: BEGICH
04/30/21	(S)	FIN REFERRAL REMOVED
04/30/21	(S)	CRA REFERRAL ADDED AFTER EDC
05/11/21	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
05/11/21	(S)	-- MEETING CANCELED --
05/13/21	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
05/13/21	(S)	Moved CSSB 119(EDC) Out of Committee
05/13/21	(S)	MINUTE(CRA)
05/14/21	(S)	CRA RPT 1DP 1DNP 2NR
05/14/21	(S)	DP: HUGHES
05/14/21	(S)	DNP: GRAY-JACKSON
05/14/21	(S)	NR: MYERS, WILSON
01/31/22	(S)	JUD AT 1:30 PM BUTROVICH 205

#### **WITNESS REGISTER**

EDWARD MARTIN, representing self

Kenai, Alaska

**POSITION STATEMENT:** Testified with concerns on SJR 19.

ED KING, Staff

Senator Roger Holland

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Testified on SJR 19 on behalf of Senator Holland.

MIKE COONS, representing self

Palmer, Alaska

**POSITION STATEMENT:** Testified in opposition to SJR 19 because he prefers the governor's spending limit.

REPRESENTATIVE CHRIS TUCK  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 155.

MICHAEL MASON, Staff  
Representative Chris Tuck  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for HB 155 on behalf of the sponsor of HB 155.

DOUG WOOLIVER, Deputy Admin Director;  
Office of the Administrative Director  
Alaska Court System  
Anchorage, Alaska

**POSITION STATEMENT:** Provided invited testimony in support of HB 155 on behalf of the court system.

JAMES STINSON, Director  
Office of Public Advocacy  
Department of Administration  
Anchorage, Alaska

**POSITION STATEMENT:** Provided invited testimony on HB 155.

SENATOR LORA REINBOLD  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 119.

## **ACTION NARRATIVE**

[1:32:59 PM](#)

**CHAIR ROGER HOLLAND** called the Senate Judiciary Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Shower, Hughes, Myers, Kiehl, and Chair Holland.

### **SJR 19-CONST. AM: APPROP LIMIT**

[1:33:39 PM](#)

**CHAIR HOLLAND** announced the consideration of SENATE JOINT RESOLUTION NO. 19, Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit.

CHAIR HOLLAND reminded members that the committee worked extensively on Senate Joint Resolution 301 during the third special session. The committee substitute (CS) language for Senate Joint Resolution 301 was incorporated into SJR 19.

[The committee held its first hearing on SJR 19 on 1/28/2022.]

[1:34:22 PM](#)

SENATOR SHOWER commented that the committee discussed [Senate Joint Resolution 301] last year. He asked for a summary of how the trailing average works and what indicators drive the change in the spending cap.

[1:35:18 PM](#)

SENATOR MYERS, speaking as sponsor, responded that SJR 19 uses a five-year rolling average for the personal income index for several reasons. First, he offered his view that this would provide more stability. Second, if the state experienced a recession, it would need to ramp up unemployment insurance and several other things to create a smoothing effect. This means the economy can drop slightly while the rolling average is still increasing. The state would not cut off state spending immediately when it is needed. The state would need to reduce its spending, but using personal income provides a little flexibility at the beginning. He offered that this provides some incentive for the state to pay attention to the private sector and help get the economy back up and running if the state experiences a recession.

[1:36:51 PM](#)

SENATOR SHOWER related his understanding that the spending cap could drive spending down. He asked for the curve's starting point and if it would be based on the current budget and trend upward.

SENATOR MYERS answered that the spending cap would put downward pressure on the budget if the state experienced a recession. The concept of a spending cap is not only to cap spending but to tie it to the performance of the state's economy as a whole. Second, one benefit of the spending cap is the structure in SJR 19. Previous spending caps were based on current spending and indexed by inflation, population, or both. This creates some significant problems because it is not necessarily tied to current events, including state spending and the economy. He acknowledged that inflation is always an issue, but it is a driver based on events happening outside of Alaska. He said that the population largely follows the economy. If the economy is

doing great, more people will come to Alaska, but the population tends to diminish if the economy is tanking. He offered his view that using personal income as the statistic would provide a better tracking overall.

[1:39:28 PM](#)

SENATOR KIEHL moved to adopt Amendment 1, work order 32-LS1353\A.1.

32-LS1353\A.1

Marx

1/27/22

**AMENDMENT 1**

OFFERED IN THE SENATE

BY SENATOR KIEHL

Page 2, line 4:

Delete "**fourteen**"

Insert "**fourteen and one-half**"

Page 2, line 8:

Delete "**fourteen**"

Insert "**fourteen and one-half**"

SENATOR HUGHES objected for discussion purposes.

[1:39:46 PM](#)

SENATOR KIEHL explained Amendment 1. He said he discussed SJR 19 with Legislative Finance and Ed King, an economist and committee staff. It appears a slight upward adjustment to the cap is necessary to achieve the additional headroom the committee discussed last fall. He recalled the committee had discussed 14 percent of Gross Domestic Product (GDP), leaving \$600 million of headroom. He referred to charts the committee reviewed at its last meeting on January 28, 2022. He recalled that the spending cap based on personal income would provide \$100 million in the current fiscal year and approximately \$400 million in the next fiscal year. He stated that raising the percentage to 14.5 percent would achieve the level of headroom the committee discussed when it moved Senate Joint Resolution 301 from the committee.

[1:41:30 PM](#)

SENATOR HUGHES referred to slide 1, Current Constitutional Appropriation Limit (Article IX, Section 16) and Appropriations

Subject to the Limit. She directed attention to the graph on the lower side of the slide. She said it appears as though the blue line shows the state had \$100 to \$200 million of headroom during the state's highest years of spending [in FY 2009, FY 2012, FY 2013, and FY 2014]. She asked if the light blue line would move slightly upward if the spending cap was based on 14.5 percent instead of 14 percent.

[1:42:23 PM](#)

SENATOR KIEHL responded that he thought it was the current status quo spending limit as shown by the dark blue line.

[1:42:32 PM](#)

SENATOR MYERS agreed. The graph reflects the current spending cap established in the early 1980s. He said that the large gap illustrates that the existing spending cap is ineffective. It did not curb spending beginning the year after it was adopted. It potentially could have applied in the last boom in FY 2007 or FY 2012, but the state is nowhere near that right now.

[1:43:31 PM](#)

SENATOR HUGHES asked for confirmation that using either 14 percent or 14.5 percent of the five-year rolling average of the value of personal income of Alaska residents would mean the constitutional spending limit would be below the high peaks shown on the lower chart.

SENATOR MYERS directed attention to slide 2, to the bar chart shown in orange, Proposed Constitutional Appropriations Limits Based on State Private Personal Income. The bars representing state spending in FY 2009 and FY 2013 would be significantly above the proposed spending cap in SJR 19.

[1:44:08 PM](#)

SENATOR SHOWER asked for confirmation that the chart on slide 2, Proposed Constitutional Appropriations Limits Based on State Private Personal Income means that the state could have saved a significant portion of the funds. He acknowledged that some of the spending was for capital budgets. He recalled Mr. King briefed members that the permanent fund would be \$115 to \$130 billion if not spent. He asked if this would create a true downward pressure. He asked how the constitutional spending limit of 14.5 percent would affect the chart. He wondered if the spending limit would be about 20 percent.

[1:45:38 PM](#)

SENATOR KIEHL answered that it is difficult to predict what prior legislatures would have done since legislators could have increased the balances in the permanent fund, constitutional budget reserve (CBR), or statutory budget reserve (SBR). The referenced chart with orange bars and the blue line indicates that it would have resulted in less spending. He said the spending limit based on the 1980s era percentage of personal income was about \$10 billion. He estimated ballpark figures of 25 percent.

[1:46:40 PM](#)

SENATOR MYERS said he believed Senator Kiehl was correct. He said the current spending cap was 23 percent of GDP.

[1:47:27 PM](#)

At ease

[1:48:06 PM](#)

CHAIR HOLLAND reconvened the meeting.

[1:48:13 PM](#)

SENATOR HUGHES stated that using the appropriation for this budget, there would be about \$500 million headroom at 14 percent.

SENATOR MYERS answered that using the governor's budget for FY 2023, SJR 19 at 14 percent, would provide \$467 million headroom.

[1:49:01 PM](#)

SENATOR SHOWER responded that he did not mind providing some wiggle room. He acknowledged that it was pertinent for the next committee of referral. He said he agreed, but he was concerned about raising the percentage.

[1:49:58 PM](#)

SENATOR HUGHES said she realized that this would provide \$500 million in headroom, so she is comfortable using a spending cap based on 14 percent.

[1:50:40 PM](#)

SENATOR KIEHL explained the underlying constitutional language provides the absolute hard ceiling. He spoke in favor of giving a little more flexibility to the spending limit.

[1:51:22 PM](#)

SENATOR HUGHES maintained her objection.

[1:51:27 PM](#)

A roll call vote was taken. Senator Kiehl, Myers, and Holland voted in favor of Amendment 1 and Senators Shower and Hughes voted against it. Therefore, Amendment 1 was adopted by 3:2 vote.

[1:52:01 PM](#)

CHAIR HOLLAND opened public testimony on SJR 19.

[1:52:37 PM](#)

EDWARD MARTIN, JR. representing self, Kenai, Alaska, stated that SJR 19 was an interesting resolution. He said he thought that as an American, he was secure in his person, paper and effects. He expressed concern that using personal income would not be available since Alaska does not have a personal income tax. He asked whether the state would use the federal tax rolls to spy on Alaskans. He suggested it might be intrusive.

MR. MARTIN said he appreciated the sponsor's concern about government spending. He shared his viewpoint on another bill, not before the committee and the need to cut government spending.

CHAIR HOLLAND asked testifiers to speak to the bill before the committee. He asked his staff to provide insight to address Mr. Martin's concerns.

[1:56:39 PM](#)

ED KING, Staff, Senator Roger Holland, Alaska State Legislature, Juneau, Alaska, stated that the US Bureau of Economic Analysis publishes federal metrics and those metrics were used to generate the charts. The IRS provides federal data that is available for states, even those without a personal income tax.

[1:57:23 PM](#)

MIKE COONS, representing self, Palmer, Alaska, (via teleconference) said the sponsor mentioned the five-year rolling average in terms of a recession. He said that going back to the governor's proposal of 2.5 with a 10 percent cap would provide more money to address a recession. He highlighted that the real function of government is not to provide social welfare. He offered his view that the SJR 19 language would confuse voters. He surmised they would vote no. He favored the governor's amendment with a 2.5 percent cap. He said he does not support SJR 19.

[1:59:47 PM](#)

SENATOR HUGHES asked Mr. Coons to repeat his last sentence.

MR. COONS stated that he would like a clearcut 2.5 percent spending cap and that the legislature should let the voters decide. He does not support SJR 19, but he supports the governor's proposed constitutional spending cap.

2:00:23 PM

SENATOR MYERS stated he was unsure whether he understood his point. The committee previously reviewed the governor's proposed constitutional amendment, and it did not use a percentage, so he was uncertain about the reference to the 2.5 percent cap.

MR. COONS responded that was his understanding of the governor's spending cap.

2:01:08 PM

SENATOR HUGHES clarified for the public that comparing the two constitutional amendments was not comparing 2.5 percent to 14 or 14.5 percent of growth.

2:01:56 PM

SENATOR MYERS summarized the governor's constitutional amendment [SJR 5] for a spending cap to SJR 19. The governor took the current spending and indexed it to inflation and population growth. As inflation and population grows, the legislature's amount to spend would increase.

SENATOR MYERS explained that SJR 19 proposes a different mechanism. Rather than taking current spending, the spending should reflect the economy. The 14 percent spending limit is not a measure of growth but how much of the economy comes from the government. Thus, if the economy shrinks, the budget will shrink; if the economy grows, the government will grow. As he mentioned when he presented SJR 19, one would expect the government to grow as the economy grows. He emphasized that while the goal is to limit spending and excess, the mechanism used in the two proposals is very different.

2:03:23 PM

CHAIR HOLLAND summarized that under SJR 19, as the economy shrinks, there would be downward pressure to shrink state spending. As the economy grows, there would be more opportunities for state spending to increase. However, it would do so by increasing the cap.

SENATOR MYERS answered that he was correct.

[2:03:40 PM](#)

SENATOR HUGHES related a scenario where the economy could shrink, the population could grow, and inflation could rise. The legislature would like to avoid the predicament where it cannot afford government spending. She said she believed that tying it to the economy would be better than using population and inflation factors.

[2:04:10 PM](#)

CHAIR HOLLAND closed public testimony on SJR 19.

[2:04:23 PM](#)

SENATOR MYERS made closing remarks. The point of a spending cap is not to put downward pressure on the legislature during a spending crisis but to limit growth and excess spending. The legislature has discovered it is effortless to increase expenditures but challenging to reduce them. It's better to keep spending from going up in the first place. Last year, he did the math when he introduced the resolution for a spending cap using GDP. Even without addressing inflation or investment, the state would have an extra \$15 billion in the bank. He surmised that economic modeling using personal income, as SJR 19 does, would likely be similar. A significant part of the fiscal solution is ensuring that the state does not go on a spending spree again when revenue increases.

[2:05:43 PM](#)

SENATOR SHOWER moved to report SJR 19, work order 32-LS1353\A as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR HOLLAND heard no objection, so SJR 19 was reported from the Senate Judiciary Standing Committee.

[2:06:06 PM](#)

At ease

#### **HB 155-COURT SYSTEM PROVIDE VISITORS & EXPERTS**

[2:08:15 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of HOUSE BILL NO. 155 "An Act relating to court-appointed visitors and experts; relating to the powers and duties of the office of public advocacy; relating to the powers and duties of the Alaska Court System; and providing for an effective date."

[This is the first hearing on HB 155.]

2:08:47 PM

REPRESENTATIVE CHRIS TUCK, Alaska State Legislature, Juneau, Alaska, sponsor of HB 155, stated that this bill was a collaborative effort to fix a flaw in the Court Visitor Program [also known as court visitors]. It would transfer the office from the Office of Public Advocacy (OPA) in the executive branch to the Alaska Court System in the judicial branch. Currently, court visitors make recommendations on guardianships and conservatorships. He paraphrased the sponsor statement.

[Original punctuation provided]:

The Court Visitor Program was created to act as an investigative arm of the Alaska Court System in certain protective probate proceedings. Court visitors conduct independent investigations into whether guardianships or conservatorships are necessary. They also review each existing guardianship and conservatorship at least once every three years. Additionally, court visitors participate in psychotropic medication proceedings during involuntary commitments to investigate whether the patient can give or withhold informed consent. Since 1984, the court visitor program has been administered by the Office of Public Advocacy. Unfortunately, there is no legislative history that clarifies why this judicial branch program was placed under the direction of an executive branch office. The only inference that can be made is that anything having to do with "guardianships" was placed with OPA because the office provides public guardians and attorneys for these proceedings. As the court visitor program has continued to grow, it has become increasingly unwieldy because OPA cannot effectively supervise independent contractors who act as "the eyes and ears" of the court. There is also duplicity of services between the executive and judicial branches of government because the court system independently contracts with and directly pays for court visitors in conservatorship proceedings. OPA is only responsible for providing court visitors in guardianship proceedings. The differences between how OPA and the Court System handle these proceedings have caused frustration among the court visitors who work both types of cases. Both

the Alaska Court System and OPA agree that transferring the program to the court system is long overdue and would make the program more efficient. The transfer would allow the Court System to put in place standards for reports and who it chooses to use as a court visitor.

2:12:09 PM

MICHAEL MASON, Staff, Representative Chris Tuck, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor, presented the sectional analysis for HB 155.

Section 1 - Repeals and reenacts AS 13.26.226 (d) to read: The Alaska Court System shall provide visitors and experts in guardianship proceedings under AS 13.26.291. The Alaska Court System may contract for services of court-appointed visitors and experts.

Section 2 - Amends AS 13.26.291 (a) to stipulate that the Alaska Court System shall bear the costs of the visitors and experts appointed under AS 13.26.226 (c).

Section 3 - Amends AS 44.21.410 (a) to remove paragraph 2 and renumber the remaining paragraph.

2:13:09 PM

Section 4 - Amends AS.21.420 (c) to remove language allowing the Commissioner of Administration to contract for services for court visitors and experts to perform the duties set out in AS 44.21.410.

Section 5 - Amends AS 44.21.440 (b) to remove a reference to court visitors from language prohibiting the Office of Public Advocacy from using improper pressure to influence the professional judgment of a person paid by the office.

Section 6 - Amends AS.30.839 (d) to remove language allowing the court to direct the Office of Public Advocacy to provide a court visitor to investigate whether a patient can give or withhold informed consent in psychotropic medication proceedings during involuntary commitments.

2:13:58 PM

Section 7 - Amends 47.30.839 to add a new subsection to read: (j) The Alaska Court System shall provide

visitors in proceedings under this section. The Alaska Court System may contract for services of court-appointed visitors.

Section 8 - Amends the uncodified law of the State of Alaska to add transition language stipulating that the act applies to guardianship proceedings under AS 13.26.291 and proceedings under AS.30.839 commenced on or after the effective date of the act. The section further amends the uncodified law of the State of Alaska to ensure that the Office of Public Advocacy shall provide visitors and experts in guardianship proceedings and visitors in proceedings under AS 47.30.839 that were commenced before the effective date of the act.

Section 9 - Provides an effective date of July 1, 2021.

[2:15:11 PM](#)

CHAIR HOLLAND turned to invited testimony on HB 155.

[2:15:41 PM](#)

DOUG WOOLIVER, Deputy Admin Director, Office of the Administrative Director, Alaska Court System, Anchorage, Alaska, (via teleconference), stated that the Alaska Court System worked with the Office of Public Advocacy (OPA) on the bill. The court system agrees with the proposal in HB 155. For some odd reason, the Court Visitor Program was housed in OPA. As the numbers of people who need assistance due to old age will continue to increase, HB 155 makes sense. This bill will transfer the Court Visitor Program from OPA to the Alaska Court System. He characterized HB 155 as a good clean-up bill. He recalled that this transfer has been discussed for many years, as far back as then-Governor Frank Murkowski's administration. The court system, OPA, and court visitors support this change. It is better for people who work for the Alaska Court System but are housed in OPA to be under the courts.

[2:18:28 PM](#)

JAMES STINSON, Director, Office of Public Advocacy, Department of Administration, Anchorage, Alaska, (via Teams), echoed Mr. Wooliver's testimony. He was unsure of the reason this function was placed the Office of Public Advocacy (OPA) in the first place, but he surmised that it may have been because it dealt with guardianships. However, the court visitors act as neutral observers. One legislative audit recommended the program should

be housed within the court system because it creates the perception that OPA conducts the work and makes all the recommendations. In doing so, the court system would have more control over these important proceedings. The court system will set standards of practice and requirements for court visitor reports, which are especially important since these proceedings substantially restrict a person's financial liberty or impose a full guardianship. He offered his view that this function is not something that OPA can manage well, but the court system can. He emphasized that the state must address the court visitor function since Alaska's aging demographic will lead to more guardianship proceedings. If the program remains in OPA, the agency will need to request more resources. He characterized the bill as a win-win.

[2:22:56 PM](#)

SENATOR MYERS said he noticed the fiscal impact was \$100,000 in additional funding for the court system to take over the program.

MR. MASON responded that OPA and the court system worked together on the transition plan. He deferred to Mr. Wooliver.

MR. WOOLIVER answered that if the court visitor program remains with OPA, that agency would also need an additional person to manage it because the number of guardianship and conservatorships has grown and will continue to grow.

[2:24:59 PM](#)

SENATOR HUGHES acknowledged the efficiencies that this transfer would provide. She wondered if there was a check and balance between the branches. She heard testimony from agencies that this transfer creates efficiencies, and the court system and OPA support the proposed change. She asked if AARP and the Governor's Commission on Aging support HB 155 since the court visitors serve Alaskans.

[2:26:21 PM](#)

MR. STINSON responded that anecdotally the perception is that OPA has too much influence over the proceedings because the court documents reflect that the Office of Public Advocacy (OPA) provides the services. The only complaints he has received questioned the control OPA might have in the process. The last legislative audit highlighted that perception. OPA provides the respondent's counsel so that the attorney might be arguing the case for someone who does not want a conservatorship or guardianship. The attorney might say that the party does not

warrant guardianship. Still, OPA also funds the court visitor, whose recommendation might state that guardianship was necessary. He noted that the perception of a conflict is in the status quo. Moving the court visitor function to the court system helps identify that a court visitor is a neutral person.

SENATOR HUGHES asked to hear support from individual Alaskans or groups supporting Alaskans for this change. While she is not opposed to HB 155, she would like that input.

2:28:34 PM

MR. MASON offered to reach out to the Alaska Commission on Aging. He reported that he did not receive any negative feedback on the bill. He related that the parties are all in agreement with this change.

2:29:11 PM

SENATOR SHOWER asked if the legislative oversight of the court visitors would be budgetary.

REPRESENTATIVE TUCK answered yes.

SENATOR SHOWER asked if the court system should house the guardianship and conservatorship functions or if one function should stay with OPA.

MR. STINSON answered that the work is essentially the same. He explained that someone who needs a conservatorship might need guardianship later. The same court visitors will handle the cases.

2:30:57 PM

SENATOR SHOWER referred to page 3, Section 5, which read:

(b)The office of public advocacy may not use improper pressure to influence the professional judgment of a person who is paid by the office of public advocacy to act as an attorney or [,] a guardian ad litem [, OR A VISITOR] for a guardianship or conservatorship established under AS 13.26.

SENATOR SHOWER acknowledged that this language might be existing law, but it is still good to review it. He wondered if any penalties were associated with improper pressure to influence professional judgment.

MR. STINSON responded that he was unsure. He stated that this provision would also apply to not exerting influence on guardian ad litem or attorneys. In those two instances, it is easier since it is a judicial function. OPA has historically erred on the side of caution. He surmised that Section 5 brings heightened attention with that clause. It is easier to understand the Rules of Conduct for attorneys' duties. OPA provides administration of a court function, so it does not have substantial oversight or involvement in what court visitors do. He said he was unsure of the penalty provisions.

2:32:08 PM

SENATOR SHOWER expressed an interest in the penalty provisions. He referred to page 4, Section 7, which read:

(j) The Alaska Court System shall provide visitors in proceedings under this section. The Alaska Court System may contract for services of court-appointed visitors.

SENATOR SHOWER wondered if the court system decided it would not contract for services, would the state pay more to process additional cases.

REPRESENTATIVE TUCK responded that this would be a year-to-year budget item based on need and demand. He characterized it as a "gray avalanche" because the aging process translates to people needing more services. He referred to the fiscal note. Even without this bill, the state will provide court visitor services. The court system and OPA currently negotiate this function. He offered to research the penalty provisions but did not believe any penalties applied.

REPRESENTATIVE TUCK reminded members that the Office of Public Advocacy (OPA) is by nature, an advocacy group. These statutory provisions establish limitations for the advocacy group by outlining what they shall and shall not do. However, it makes more sense to house court visitors in the court system since they must be neutral.

2:34:08 PM

SENATOR SHOWER expressed concern that as the need for court visitors grows, it will impact the state since it would require additional positions.

2:34:30 PM

SENATOR KIEHL asked if the court visitors and experts remain throughout the conservatorship, guardianship, or time in the medical system or if the court visitors investigate and make single reports to the court.

2:35:01 PM

MR. MASON deferred to Mr. Stinson.

2:35:13 PM

MR. STINSON answered that there would be an initial proceeding followed by a review every three years to determine that the substantial limitation of liberty was still appropriate. He stated that a subsequent investigation and report would be required every three years. Thus, three-year reviews will spike as the number of total guardianships increases. He explained that guardianships tend to remain for a person's natural life. For example, a severely disabled juvenile could become an adult who might live to be 80-years-old and require full guardianship. These cases tend to be lengthy, unlike civil or criminal cases that may be resolved in one or two years when the verdict is issued.

2:36:20 PM

SENATOR KIEHL referred to the transition section. He asked whether the three-year reviews were new proceedings or the same guardianship proceeding throughout the person's natural life.

MR. STINSON answered that it is the same in that it refers to the same person, and if at all possible, the same court visitor would conduct the three-year review.

2:37:01 PM

SENATOR KIEHL asked for clarity whether the three-year review remains the same proceeding; if not, the two entities would be running the program for decades. He estimated that if the three-year reviews are new proceedings, the transition period would be limited to three years in which both agencies run a portion of the program.

2:37:29 PM

MR. STINSON explained the transition provision. OPA and the court system have agreed that OPA would pay for the services provided prior to the effective date. The rest of the costs would be passed on to the court system. He clarified that there are no in-house position control numbers (PCNs) that provide these services. The court visitors are all independent contractors. The funding that is transferred to the court system

from OPA pays for independent contractors. He explained that the transition would work such that OPA would stop paying on the effective date of the bill, and the court system would begin paying for the services. He stated that OPA does not administer the proceedings since independent court visitors provide the investigation and report to the court. The transition refers to the date for the transfer of responsibility.

SENATOR KIEHL offered to follow up with the sponsor to ensure that the transition language in Section 8 matches with the intent.

[2:38:50 PM](#)

CHAIR HOLLAND held HB 155 in committee.

[2:38:53 PM](#)

At ease

[2:40:08 PM](#)

CHAIR HOLLAND stated that the committee would not take up SB 129.

#### **SB 119-OATH OF OFFICE**

[2:40:29 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 119 "An Act relating to oaths of office; and requiring public officers to read the state constitution, the Declaration of Independence, and the United States Constitution."

[CS FOR SENATE BILL NO. 119(EDC) was before the committee.]

[2:41:01 PM](#)

SENATOR LORA REINBOLD, Alaska State Legislature, Juneau, Alaska, paraphrased the sponsor statement for SB 119.

[Original punctuation provided]

This bill requires all those whose are statutorily or constitutionally required to take an oath in the State of Alaska to read: the Declaration of Independence, the United States Constitution and The Constitution of the State of Alaska. Following the reading of the documents, a signed statement acknowledging the action will be filed at the Alaska State Libraries, Archives and Museums directly after taking the Oath of office.

[2:42:28 PM](#)

SENATOR REINBOLD paraphrased the sectional analysis for SB 119:

[Original punctuation provided]:

Sectional Analysis for CS SB 119 32-LS0163\G

Section 1. AS 14.12.090 is amended to include every school board member before taking office shall read the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States, and take and sign an oath of affirmation.

Section 2. AS 18.65.010 (c) is amended to include every person appointed shall, after reading the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States, take the constitutional oath of office.

[2:42:55 PM](#)

Section 3. AS 22.05.090 is amended to include each supreme court justice upon entering office shall, after reading the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States, take and subscribe to an oath of office required by all officers and any further oath or affirmation that may be prescribed by law.

Section 4. AS 22.07.050 is amended to include each judge of the court of appeals, upon entering office shall, after reading the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States, take and subscribe to the oath or affirmation of office required of all officers under the constitution.

Section 5. AS 22.10.110 is amended to include each superior court judge upon entering office, shall, after reading the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States, take and subscribe to an oath of office required of all officers under the constitution and any further oath or affirmation as may be prescribed by law.

[2:43:14 PM](#)

Section 6. AS 22.15.180 is amended to include each district judge and magistrate, upon entering office, shall, after reading the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States take and subscribe to an oath of office required of all officers under the constitution and any further oath or affirmation that may be prescribed by law.

[2:43:22 PM](#)

Section 7. AS 24.05.060 is amended to include each member of the legislature, before entering upon the duties of office, shall, after reading the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States take the oath of office prescribed in Art. XII Sec. 5, Constitution of the State of Alaska, and such further oath or affirmation prescribed by law for members of the legislature or other officers of the state.

Section 8. AS 29.20.600 is amended to include Municipal officials shall, after reading the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States, affirm in writing that the duties of the office will be honestly, faithfully, and impartially performed by the official. The oath is filed with the municipal clerk.

Section 9. AS 39.05.040 is amended to include the principal executive officer of each department and the member of each board within the state government shall, after reading the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States, take, sign, and file the oath of office required by the constitution before entering upon the duties of office.

[2:43:44 PM](#)

SENATOR REINBOLD commented that these people are already required to do this. She brought forward the bill because there were inconsistencies between the three branches of government. This would provide a consistent, uniform process.

Section 10. AS 39.05.045 is amended to include a public officer or employee of the state, before entering upon the duties of office shall read the Constitution of the State of Alaska, the Declaration of Independence, and the Constitution of the United States and take and sign the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as ..... to the best of my ability."

2:44:14 PM

SENATOR KIEHL asked why the bill requires officials to read the Declaration of Independence when the oath of office is not required to uphold it.

SENATOR REINBOLD responded that the executive branch has been writing mandates. Still, the legislative branch is the branch that writes the laws, the executive branch carries out the laws, and the judicial branch resolves disputes. She stated that reading the Declaration of Independence shows the grievances people had. She noted that reading the Declaration of Independence and the US Constitution was crucial.

2:45:40 PM

SENATOR KIEHL said the more thorough exploration of the relationship between the three branches of government is found in the Federalist Papers. He said he read them in high school and college. He asked why the bill does not require reading the Federalist Papers.

SENATOR REINBOLD answered that she would not object to adding it to the bill.

2:47:09 PM

SENATOR MYERS asked what problem SB 119 was trying to solve.

SENATOR REINBOLD responded that she would love to see students reading these documents. She expressed concern that important things were happening in this country. She stated that the US Constitution is the supreme law of the land. She said that people get caught up in guidelines and statutes, so she advocates reading the source documents as a refresher, keeping officials focused on their responsibilities.

2:48:26 PM

SENATOR MYERS pointed out that at least three schools of interpretation of the US Constitution exist. He wondered if the issue was related to knowledge or the interpretation of the documents.

SENATOR REINBOLD offered her view that people do not need to interpret the US Constitution since its purpose was to constrain government and set out individual rights. She paraphrased the US Constitution, Article 1, Sections 2 and 4, Declaration of Rights, which read:

Section 2. Source of Government

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

Section 4. Freedom of Religion

No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

SENATOR REINBOLD said it was written for all people to read and appreciate, so it does not need to be interpreted. She related her own practices of reading the documents listed in the bill.

[2:50:18 PM](#)

SENATOR SHOWER remarked that he wished these documents were required in social studies. He emphasized the importance of learning the basis for the US government. For example, people refer to the US as a democracy, but it is a representative republic. He related documents he had read. He asked if the courts would challenge SB 119 based on personal freedom. He stated it is sometimes tenuous to tell someone they must do something.

[2:52:10 PM](#)

SENATOR REINBOLD responded that judges, magistrates, commissioners all must take an oath, but there was inconsistency within the statutes. She remarked that she could not imagine people have not read them since they must take an oath to uphold them. She did not see it as an infringement.

[2:53:07 PM](#)

SENATOR SHOWER commented that he wasn't speaking against the bill. He related that he researched what other states required, and he found requirements varied and were more stringent.

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SENATOR REINBOLD said she read the documents in high school and college but finds it meaningful to re-read them. She recalled hearing some candidates indicate they needed to re-read them. She felt certain that some candidates have not read these documents since high school. She recalled that the Senate Education Standing Committee added school board members to the list of people required to read the documents listed in the bill. She asked if the sponsor would consider adding assembly members and community council members to the bill. She was unsure whether other documents should be added. She remarked that the Federalist Papers were about 250 to 300 pages in length and the Anti-Federalist Papers consisted of 85 essays. She expressed concern about the length of the documents but would be open to it if there were Cliff Notes.

2:55:37 PM

SENATOR REINBOLD offered her belief that assembly members, community council members, and school board members were included under municipal officials.

CHAIR HOLLAND asked if she was speaking about the school board and assembly members.

SENATOR REINBOLD answered yes. She recalled that the Senate Education Committee adopted an amendment to add school board and assembly members.

CHAIR HOLLAND reminded members this was just the first hearing for the bill so the committee could address it later.

2:56:17 PM

SENATOR HUGHES asked if they were covered in Section 9.

SENATOR SHOWER referred to Section 10.

SENATOR HUGHES noted she was missing Section 10.

2:56:35 PM

SENATOR KIEHL stated that Section 1 covers school board members and Section 8 relates to council and assembly members in Title 29. He said the bill requires filing the oaths of office. He asked for consequences if a person does not do the required

reading, such that it would disqualify them from holding the office.

SENATOR REINBOLD answered that this is on the honor system. People read an oath and sign that they have read it. The purpose of the filing is to hold them accountable.

[2:58:06 PM](#)

SENATOR REINBOLD summarized that the people signing an oath of office should read the three documents.

[2:58:23 PM](#)

CHAIR HOLLAND held SB 119 in committee.

[2:58:36 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 2:58 p.m.